IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.2266 OF 1997

Sadanand Bhikaji Durgavali)
Behind Golgadevi Mandir)
Near Seashore Zopadpatti)
Worli Koliwada, Bombay 400 025.).. PETITIONER

VERSUS

1) Jaslok Hospital and Research Centre)
15, Dr.G. Deshmukh Marg)
Bombay 400 026.)

2) Shri D.H.Deshmukh)
Presiding Officer, 6th Labour Court)
having his office at Arun Chambers)
Tardeo, Bombay 400 034.).. RESPONDENTS

Mr.N.M. Ganguli for the Petitioner.

None present for Respondent No.1.

Respondent No.2 formal party.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 29TH MARCH 2005

ORAL JUDGMENT :

. The Award dated 16th July 1996 passed by the 6th Labour Court, Bombay which is impugned in the present Petition rejects the Reference being Reference (IDA) No.427 of 1989 made for reinstatement with continuity of service and back wages. It is the case of the Petitioner, who was employed with the 1st Respondent Hospital, that he was forced into resigning from service. On 26th January 1987, it appears that the

Petitioner was found carrying a bottle of groundnut oil, belonging to the Hospital, out of the premises, on a routine check carried out by the security guard. After a period of about eleven months, the Petitioner raised an industrial dispute on the ground that his services had been terminated on 27th January 1987 and that he was forced to resign because of his trade union activities. A reference was made and referred for adjudication before the Labour Court, Bombay.

2. After the pleadings were complete, evidence of the parties was led. The workman examined himself while the 1st Respondent Hospital examined several witnesses. They included the security guard and the security supervisor who were present at the time of the incident. One Sudam Dhumal who has stated that he was in the security cabin when the workman confessed to having committed theft of oil has also been examined. The fourth witness was the Punching Boy employed by the Hospital. He has stated that he had written out the resignation letter as the workman expressed his inability to write the same because he suffered from cramps in his hand. He has stated that the resignation letter was dictated by the Petitioner who later signed the same. The Senior Superintendent of the Hospital was also examined by the Hospital. This witness has deposed to the effect that he was present when the workman

admitted his guilt of having stolen the groundnut oil from the Hospital premises.

3. On a consideration of the evidence on record, the Labour Court was of the view that the evidence led by the Hospital was more probable and that the case of the Petitioner that he was unnecessarily involved in the incident due to his trade union activities was unbelievable. The Labour Court has found, as a matter of fact, that there was no evidence on record that the Petitioner was involved in any trade union activities or that the Hospital authorities had any animosity against him. The Labour Court was of the view that the case of the Petitioner could not be believed because he has sought to change his stance at every stage. When evidence was led, the Petitioner deposed that he was made to sign on a blank paper which then was converted into a letter of resignation. However, the pleadings in the Statement of Claim are contrary since it has been stated that the letter of resignation was written by Prakash Nalawade, the fourth witness for the Hospital. It was only thereafter that the Petitioner has signed the same.

4. Mr.Ganguli for the Petitioner has urged that the Award is required to be set aside as it is based on a perverse finding. He submits that the Award has been

made in favour of the Hospital only because it examined five witnesses in its support. According to the learned Counsel, the number of witnesses cannot decide the value of the evidence led before the Labour Court. He further submits that although in the Written Statement it has been mentioned that the Petitioner was carrying 500 ml. of groundnut oil, the Petitioner has voluntarily stated that he was carrying alcohol in a bottle and, therefore, the allegation against the Petitioner is unfounded. The learned Advocate also submits that it is impossible that the workman would resign voluntarily after eleven years of unblemished service.

5. On perusal of the Award, I do not find that the Labour Court has committed any perversity while rejecting the Reference. The Labour Court has chosen to disbelieve the evidence of the Petitioner. This Court under Articles 226 and 227 cannot re-appreciate the evidence.

6. The submission of Mr.Ganguly that the Labour Court has accepted the Hospital’s evidence only because it examined five witnesses is unfounded. The Labour Court has considered the evidence led by either party in great detail and has found that the Petitioner was not coerced into resigning. The quality of the evidence of the Hospital has weighed with the Labour Court. A

possible view has been taken by the Labour Court and I see no reason to interfere with the same. Petition rejected. Rule discharged. No order as to costs.